

Introduced by Senator Migden

February 22, 2005

An act to amend ~~Section 6216.5 of the Public Resources Code, relating to state lands. Sections 53395, 53395.1, 53395.3, 53395.4, 53395.5, 53395.14, and 53395.20 of, and to add Section 53395.26 to, the Government Code, relating to infrastructure financing districts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, as amended, Migden. ~~State lands: minerals~~ *Infrastructure financing districts: public trust lands.*

~~Under existing law, the State Lands Commission may prescribe rules and regulations for the noncommercial hobby collection of minerals from state lands as are in the best interests of the state.~~

~~This bill would make a technical, nonsubstantive change in that provision.~~

Existing law authorizes the formation by local legislative bodies of infrastructure financing districts, which may include specified types of areas, to incur debt, as defined, or provide for tax increment allocation, to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of specified types of real or tangible property, including specified types of facilities, pursuant to an infrastructure financing plan adopted pursuant to specified procedures.

This bill would expand the definition of "debt" for these purposes, include environmental remediation and certain types of repairs within those projects that may be financed, include various facilities within those qualifying for financing, and make various clarifying changes. It would include tidelands and submerged lands subject to the public trust among the areas that may be included in an infrastructure

financing district and make related changes. It would also make various changes in the procedures for formation of the district and adoption of an infrastructure financing plan if all the land in the district would be publicly owned, and authorize the amendment of an infrastructure financing plan to extend time limitations for receipt of property tax increment, subject to specified conditions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 6216.5 of the Public Resources Code is~~
2 ~~amended to read:~~
3 *SECTION 1. Section 53395 of the Government Code is*
4 *amended to read:*
5 53395. (a) The Legislature finds and declares that the state
6 and federal governments have withdrawn in whole or in part
7 from their former role in financing major, regional, or
8 communitywide infrastructure, including highways and
9 interchanges, sewage treatment and water reclamation works,
10 water supply and treatment works, flood control and drainage
11 works, schools, libraries, parks, parking facilities, open space,
12 and seismic retrofit and rehabilitation of public facilities.
13 (b) The Legislature further finds and declares that the methods
14 available to local agencies to finance public works often place an
15 undue and unfair burden on buyers of new homes, especially for
16 public works that benefit the broader community.
17 (c) The Legislature further finds and declares that the absence
18 of practical and equitable methods for financing both regional
19 and local public works leads to a declining standard of public
20 works, a reduced quality of life and decreased safety for affected
21 citizens, increased objection to otherwise desirable development,
22 and excessive costs for homebuyers.
23 (d) The Legislature further finds and declares that it is
24 equitable and in the public interest to provide alternative
25 procedures for financing public works and services needed to
26 meet the needs of new housing and other development projects.
27 (e) *The Legislature further finds and declares that*
28 *consolidating in a single public agency the responsibility to*
29 *administer waterfront lands subject to the public trust and the*

1 *ability to capture property tax increment to finance needed*
2 *public infrastructure improvements in those areas will further the*
3 *objectives of the public trust and increase the use and enjoyment*
4 *of those trust lands by the people of the state.*

5 SEC. 2. Section 53395.1 of the Government Code is amended
6 to read:

7 53395.1. Unless the context otherwise requires, the
8 definitions contained in this article shall govern the construction
9 of this chapter.

10 (a) “Affected taxing entity” means any governmental taxing
11 agency which levied or had levied on its behalf a property tax on
12 all or a portion of the property located in the proposed district in
13 the fiscal year prior to the designation of the district, but not
14 including any county office of education, school district, or
15 community college district.

16 (b) “City” means a city, a county, or a city and county.

17 (c) “Debt” means any binding obligation to repay a sum of
18 money, including obligations in the form of bonds, certificates of
19 participation, *commercial paper, variable rate demand notes,*
20 long-term leases, loans from government agencies, or loans from
21 banks, other financial institutions, private businesses, or
22 individuals.

23 (d) “Designated official” means the city engineer or other
24 appropriate official designated pursuant to Section 53395.13.

25 (e) “District” means an infrastructure financing district.

26 (f) “Infrastructure financing district” means a legally
27 constituted governmental entity established pursuant to this
28 chapter for the sole purpose of financing public facilities.

29 (g) “Landowner” or “owner of land” means any person shown
30 as the owner of land on the last equalized assessment roll or
31 otherwise known to be the owner of the land by the legislative
32 body. The legislative body has no obligation to obtain other
33 information as to the ownership of land, and its determination of
34 ownership shall be final and conclusive for the purposes of this
35 chapter. A public agency is not a landowner or owner of land for
36 purposes of this chapter, *unless the public agency owns all of the*
37 *land to be included within the proposed district.*

38 (h) “Legislative body” means the city council or board of
39 supervisors.

1 *SEC. 3. Section 53395.3 of the Government Code is amended*
2 *to read:*

3 53395.3. (a) ~~(1) A district may finance (1) the any of the~~
4 ~~following: purchase,~~

5 ~~(A) The purchase, construction, expansion, improvement,~~
6 ~~seismic retrofit, environmental remediation, or rehabilitation of~~
7 ~~any real or other tangible property with an estimated useful life~~
8 ~~of 15 years or longer which satisfies the requirements of~~
9 ~~subdivision (b), (2) may finance planning.~~

10 ~~(B) Planning and design work which that is directly related to~~
11 ~~the purchase, construction, expansion, improvement, seismic~~
12 ~~retrofit, environmental remediation, or rehabilitation of that~~
13 ~~property and (3) the described in subparagraph (A).~~

14 ~~(C) The costs described in Sections 53395.5, and 53396.5.-A~~

15 (2) A district may only finance the purchase of facilities for
16 which construction has been completed, as determined by the
17 legislative body. The facilities need not be physically located
18 within the boundaries of the district. A district may not finance
19 routine maintenance, *routine nonstructural* repair work, or the
20 costs of ongoing operation or providing services of any kind.

21 (b) The district shall finance only public capital facilities of
22 communitywide significance, which provide significant benefits
23 to an area larger than the area of the district, including, but not
24 limited to, all of the following:

25 (1) Highways, interchanges, ramps and bridges, arterial
26 streets, parking facilities, and transit facilities.

27 (2) Sewage treatment and water reclamation plants and
28 interceptor pipes.

29 (3) Facilities for the collection and treatment of water for
30 urban uses.

31 (4) Flood control levees and dams, retention basins, and
32 drainage channels.

33 (5) Child care facilities.

34 (6) Libraries.

35 (7) Parks, recreational facilities, and open space.

36 (8) Facilities for the transfer and disposal of solid waste,
37 including transfer stations and vehicles.

38 (9) *Seismic and life-safety improvements to existing buildings*
39 *and other structures.*

1 (10) Rehabilitation, restoration, and preservation of
2 structures, buildings, or other facilities having special historical,
3 architectural, or aesthetic interest or value and that are locally
4 designated landmarks.

5 (11) Structural repairs and improvements to piers, seawalls,
6 and wharves.

7 (12) Remediation of hazardous materials.

8 (c) Any district which constructs dwelling units shall set aside
9 not less than 20 percent of those units to increase and improve
10 the community's supply of low- and moderate-income housing
11 available at an affordable housing cost, as defined by Section
12 50052.5 of the Health and Safety Code, to persons and families
13 of low- and moderate-income, as defined in Section 50093 of the
14 Health and Safety Code.

15 SEC. 4. Section 53395.4 of the Government Code is amended
16 to read:

17 53395.4. (a) A district may not include any portion of a
18 redevelopment project area ~~which~~ that is or has been previously
19 created pursuant to Part 1 (commencing with Section 33000) of
20 Division 24 of the Health and Safety Code, whether the creation
21 is or was proper or improper. A redevelopment project area may
22 not include any portion of a district created pursuant to this
23 chapter.

24 (b) A district may finance only the facilities or services
25 authorized in this chapter to the extent that the facilities or
26 services are in addition to those provided in the territory of the
27 district before the district was created. The additional facilities or
28 services may not supplant facilities or services already available
29 within that territory when the district was created but may
30 supplement those facilities and services as needed to serve new
31 developments.

32 (c) A district may include areas ~~which~~ that are not contiguous.

33 (d) A district may include tidelands and submerged lands,
34 including filled lands, subject to the public trust. However,
35 nothing in this chapter shall be construed to exempt the lands
36 from any legal restrictions on use under the public trust or an
37 exemption from any trust or otherwise limit the jurisdiction of the
38 public agencies having responsibility for the stewardship of the
39 public trust lands.

1 *SEC. 5. Section 53395.5 of the Government Code is amended*
2 *to read:*

3 53395.5. (a) It is the intent of the Legislature that the area of
4 the districts created be substantially undeveloped, and the
5 establishment of a district should not ordinarily lead to the
6 removal of existing dwelling units. If, however, any dwelling
7 units are proposed to be removed or destroyed in the course of
8 private development or public works construction within the area
9 of the district, the legislative body shall do all of the following:

10
11 ~~(a)~~

12 (1) Within four years of the removal or destruction, cause or
13 require the construction or rehabilitation, for rental or sale to
14 persons or families of low or moderate income, of an equal
15 number of replacement dwelling units at affordable housing cost,
16 as defined in Section 50052.5 of the Health and Safety Code,
17 within the territory of the district if the dwelling units removed
18 were inhabited by persons or families of low or moderate
19 income, as defined in Section 50093 of the Health and Safety
20 Code.

21 ~~(b)~~

22 (2) Within four years of the removal or destruction, cause or
23 require the construction or rehabilitation, for rental or sale to
24 persons of low or moderate income, a number of dwelling units
25 which is at least one unit but not less than 20 percent of the total
26 dwelling units removed at affordable housing cost, as defined in
27 Section 50052.5 of the Health and Safety Code, within the
28 territory of the district if the dwelling units removed or destroyed
29 were not inhabited by persons of low or moderate income, as
30 defined in Section 50093 of the Health and Safety Code.

31 ~~(c)~~

32 (3) Provide relocation assistance and make all the payments
33 required by Chapter 16 (commencing with Section 7260) of
34 Division 7 of Title 1, to persons displaced by any public or
35 private development occurring within the territory of the district.
36 This displacement shall be deemed to be the result of public
37 action.

38 ~~(d)~~

39 (4) Ensure that removal or destruction of any dwelling units
40 occupied by persons or families of low or moderate income not

take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families and shall be decent, safe, sanitary, and otherwise standard dwellings.

(b) Nothing in this section is intended to prohibit the formation of a district on urban waterfront property, nor the financing of needed public infrastructure projects located on public trust lands.

SEC. 6. Section 53395.14 of the Government Code is amended to read:

53395.14. After receipt of a copy of the resolution of intention to establish a district, the official designated pursuant to Section 53395.13 shall prepare a proposed infrastructure financing plan. The infrastructure financing plan shall be consistent with the general plan of the city within which the district is located and shall include all of the following:

(a) A map and legal description of the proposed district, which may include all or a portion of the district designated by the legislative body in its resolution of intention.

(b) A description of the public facilities required to serve the development proposed in the area of the district including those to be provided by the private sector, those to be provided by governmental entities without assistance under this chapter, those public improvements and facilities to be financed with assistance from the proposed district, and those to be provided jointly. The description shall include the proposed location, timing, and costs of the public improvements and facilities.

(c) (1) A finding that the public facilities are of communitywide significance and provide significant benefits to an area larger than the area of the district.

(2) *Infrastructure improvements that increase public access to, or use or enjoyment of, public trust lands shall be deemed to satisfy this requirement.*

(d) A financing section, which shall contain all of the following information:

(1) A specification of the maximum portion of the incremental tax revenue of the city and of each affected taxing entity

1 proposed to be committed to the district for each year during
2 which the district will receive incremental tax revenue. The
3 portion need not be the same for all affected taxing entities. The
4 portion may change over time.

5 (2) A projection of the amount of tax revenues expected to be
6 received by the district in each year during which the district will
7 receive tax revenues, including an estimate of the amount of tax
8 revenues attributable to each affected taxing entity for each year.

9 (3) A plan for financing the public facilities to be assisted by
10 the district, including a detailed description of any intention to
11 incur debt.

12 (4) A limit on the total number of dollars of taxes which may
13 be allocated to the district pursuant to the plan.

14 (5) A date on which the district will cease to exist, by which
15 time all tax allocation to the district will end. The date shall not
16 be more than 30 years from the date on which the ordinance
17 forming the district is adopted pursuant to Section 53395.23.

18 (6) An analysis of the costs to the city of providing facilities
19 and services to the area of the district while the area is being
20 developed and after the area is developed. The plan shall also
21 include an analysis of the tax, fee, charge, and other revenues
22 expected to be received by the city as a result of expected
23 development in the area of the district.

24 (7) An analysis of the projected fiscal impact of the district
25 and the associated development upon each affected taxing entity.

26 (e) If any dwelling units occupied by persons or families of
27 low or moderate income are proposed to be removed or
28 destroyed in the course of private development or public works
29 construction within the area of the district, a plan providing for
30 replacement of those units and relocation of those persons or
31 families consistent with the requirements of Section 53395.5.

32 *SEC. 7. Section 53395.20 of the Government Code is*
33 *amended to read:*

34 53395.20. (a) At the conclusion of the hearing, the legislative
35 body may adopt a resolution proposing adoption of the
36 infrastructure financing plan, as modified, and formation of the
37 infrastructure financing district in a manner consistent with
38 Section 53395.19, or it may abandon the proceedings. If the
39 legislative body adopts a resolution proposing formation of the
40 district, it shall then submit the proposal to create the district to

the qualified electors of the proposed district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. The assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct of the election may be waived with the unanimous consent of the qualified electors of the proposed district and the concurrence of the election official conducting the election.

(b) If at least 12 persons have been registered to vote within the territory of the proposed district for each of the 90 days preceding the close of the hearing, the vote shall be by the registered voters of the proposed district, who need not necessarily be the same persons, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed district and each landowner who is the owner of record at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed district. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

(c) Ballots for the special election authorized by subdivision (a) may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall be exclusive proof of mailing in the absence of fraud. The voted ballots shall be

1 returned to the election officer conducting the election not later
2 than the hour specified in the resolution calling the election.
3 However, if all the qualified voters have voted, the election shall
4 be closed.

5 *(d) Notwithstanding any other provision of law, if all the land*
6 *in the district would be publicly owned, no election shall be*
7 *required to form the district, and the legislative body may, by*
8 *ordinance, adopt the infrastructure financing plan and create the*
9 *district, upon recommendation of the public agency with*
10 *jurisdiction over the land.*

11 SEC. 8. Section 53395.26 is added to the Government Code,
12 to read:

13 53395.26. (a) The legislative body may amend an
14 infrastructure financing plan to extend the time limitations for
15 receipt of property tax increment beyond the 30-year period
16 from adoption of the ordinance for the district for a period not to
17 exceed 10 years to pay bonded indebtedness, if the district does
18 all of the following:

19 (1) Includes an amendment, if necessary, to increase the total
20 number of dollars to be allocated to the district.

21 (2) Prepares an analysis of the projected fiscal impact on each
22 affected taxing entity.

23 (3) Sets a time and date for a public hearing on the matter.

24 (b) The amendment to the infrastructure financing plan shall
25 be mailed by the clerk to each affected taxing entity for its
26 review. Each affected taxing entity shall review and consent to or
27 disapprove the amended infrastructure financing plan within 60
28 days of the receipt thereof.

29 (c) The legislative body shall hold a public hearing regarding
30 the amendment to the infrastructure financing plan within 60
31 days after each affected taxing entity has approved the extension.
32 The public hearing, and notice thereof, shall be conducted in
33 accordance with Sections 53395.17 and 53395.18. At the
34 conclusion of the hearing, the legislative body may adopt an
35 ordinance adopting the infrastructure financing plan, as
36 modified, or it may abandon the proceedings.

37 ~~6216.5. The commission may prescribe rules and regulations~~
38 ~~for the noncommercial hobby collection of minerals from state~~
39 ~~lands as are in the best interests of the state. This section shall not~~
40 ~~prevent other state agencies from setting more definitive limits~~

- 1 on hobby collecting on lands over which they have a proprietary
- 2 interest.

O